

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 5
December 2016

ALASKA Rule 4729

ADOPTED February 29, 2016
EFFECTIVE March 30, 2016

Administration

Requires employers with taxable wages of one million dollars or more to file electronically.

Eliminates the filing of benefit claims by mail.

ARIZONA HB 2666
(CH 372)

ENACTED May 19, 2016
EFFECTIVE August 6, 2016,
or as otherwise indicated

Administration

Establishes the Office of Economic Opportunity on May 19, 2016. The Director of the Office of Economic Opportunity is appointed by the governor. Among other things, the Director shall serve as this state's workforce planning coordinator, provide staffing support to the workforce Arizona council, provide stewardship of the state workforce data evaluation system, provide economic and demographic research and analysis, including constitutionally required population estimates, provide employment and unemployment estimates, and develop labor market information for the development of the state workforce strategy.

Provides that the Office of Economic Opportunity and the Department of Economic Security (Department) shall enter into a memorandum of understanding on or before September 30, 2016, to establish that the Office of Economic Opportunity is the designated office, for this state, with responsibility for fulfilling unemployment insurance data requests from the listed entities, and to establish workforce data stewardship to support the evaluation of workforce and education programs and the development of labor market information.

Provides that the Office of Economic Opportunity and the Department, in the memorandum of understanding, shall establish specifications for quarterly data transmissions of unemployment insurance information to the Office of Economic Opportunity. The initial transmission shall include all archived data available.

Establishes the workforce data task force in the Office of Economic Opportunity to oversee workforce system evaluation data sharing.

Provides that the Department, the Department of Education, and the Office of Economic Opportunity shall notify all applicants of and participants in Workforce Innovation and Opportunity Act programs for which this state has reporting, monitoring, or evaluation responsibilities that information obtained on the application and during participation may be used to evaluate program effectiveness and to conduct research of the labor market.

Provides that all workforce evaluation system research products produced with the use of unemployment insurance information must be submitted to the Office of Economic Opportunity for archival purposes. Research products that do not contain personally identifiable information must be made available to the public, and the Secretary of State shall hold this information for long-term retention. "Research products" means the statistical analyses and reports that are produced by state entities with the use of unemployment insurance information pursuant to section 23-722.04. Section 23-722.04 provides that the Department or the Office of Economic Opportunity may disclose unemployment insurance information to the following entities:

1. any federal, state, or local governmental agency in the investigation of fraud relating to public programs or the misuse of public monies.
2. divisions of the Department, including the employment and rehabilitation services administrations, for program and research purposes.
3. the Department of Education to evaluate adult education program performance and for other primary and adult education program and research purposes.
4. the Arizona board of regents, universities under the jurisdiction of the Arizona board of regents, and community college districts to evaluate program performance and for other program and research purposes.
5. the U.S. Department of Labor, or its agents, or the U.S. Census Bureau, or its agents, as required by law or in connection with the requirements imposed as a result of receiving federal funding.
6. Department contractors or subcontractors, or their agents, for the sole purpose of providing for the processing, storage, and transmission of information. This disclosure must be consistent with these disclosure provisions.

Provides that, on the request of one of the aforementioned entities to the Department or the Office of Economic Opportunity, the Department or the Office of Economic Opportunity shall disclose unemployment insurance information to the entity pursuant to guidelines established by the workforce data task force and pursuant to a written data sharing agreement with the requesting entity in a form determined by the workforce data task force pursuant to the laws of this state and applicable federal regulations. The Department or the Office of Economic Opportunity may disclose the unemployment insurance information only after the requesting entity has demonstrated that the information will be kept confidential, except for those purposes for which the information was provided to the requesting entity, and that the requesting entity has security safeguards in place to prevent the unauthorized disclosure of the information.

Provides that, except as otherwise allowed by law or as otherwise authorized by agreement between the Department and the U.S. Department of Labor, the Department or the Office of Economic Opportunity may not use federal unemployment insurance grant monies to pay for any costs incurred in processing and handling requests for disclosure of unemployment insurance information. The Department and the Office of Economic Opportunity, in consultation with the workforce data task force, shall establish a rate structure that complies with 20 CFR 603.8 for costs incurred in processing requests for disclosure of unemployment insurance information.

Provides that the requesting entity may not make public any unemployment insurance information that identifies an individual or the individual's employer. Any unauthorized disclosure, including security breaches, shall be reported to the Department and the Office of Economic Opportunity immediately. Any person who knowingly discloses confidential unemployment insurance information in violation of these disclosure provisions without prior written authorization from the Department or the Office of Economic Opportunity, or authorization as otherwise provided by law, is guilty of a class 3 misdemeanor.

Provides that the Office of Economic Opportunity may use unemployment insurance information to perform economic analysis for the development of labor market information and a state workforce evaluation data system, and for other program and research purposes.

Provides that these disclosure provisions do not prohibit disclosure that is required or allowed by federal law.

Adds the Director of the Office of Economic Opportunity to the list of directors that shall serve as technical advisors to the board of directors that governs the Arizona commerce authority to enhance collaboration among state agencies, to meet infrastructure needs, and to facilitate growth opportunities throughout this state.

Provides that, among other things, the authority shall, notwithstanding any other law, on request of the Office of Economic Opportunity, disclose to the Office of Economic Opportunity applicant information for incentives administered, in whole or in part, by the authority. Any confidentiality requirements provided by law applicable to the information disclosed apply to the Office of Economic Opportunity.

Provides that the Director, Office of Economic Opportunity, may:

1. contract and incur obligations reasonably necessary or desirable within the general scope of the office's activities and operations to enable the Office of Economic Opportunity to adequately perform its duties.

2. use monies, facilities, or services to provide matching contributions under federal or other programs that further the objectives and programs of the office.

3. accept gifts, grants, matching monies, or direct payments from public or private agencies, or private persons and enterprises, for the conduct of programs that are consistent with the general purposes and objectives of Chapter 53, of the Arizona Revised Statutes.

Terminates the Office of Economic Opportunity on July 1, 2023.

Repeals Title 41, Chapter 53, of the Arizona Revised Statutes enacting general provisions establishing the Office of Economic Opportunity on January 1, 2024, if the office: (1) has no outstanding contractual obligations with the United States or any United States agency; (2) has no debts, obligations, or guarantees that were issued; and (3) has otherwise provided for paying or retiring such debts or obligations.

Provides that, if any debt or obligation mentioned in the above paragraph exists and no satisfactory provision has been made to pay or retire the debt or obligation, the Office of Economic Opportunity and statutes continue in existence until the debt or obligation is fully satisfied.

CALIFORNIA	SB 836	ENACTED and EFFECTIVE June 27, 2016
	(CH 31)	

Administration

Amends the confidentiality and conformity provisions to grant access to quarterly wage records to a list of state officials and state organizations for the purposes of complying with the Workforce Innovation and Opportunity Act, and subsequent regulatory changes. The list of state officials is as follows:

- The California Workforce Development Board,
- The Chancellor of the California Community Colleges,
- The Superintendent of Public Instruction,
- The Department of Rehabilitation,
- The State Department of Social Services,
- The Bureau for Private Postsecondary Education,
- The Department of Industrial Relations,
- The Division of Apprenticeship Standards, and
- The Employment Training Panel.

DELAWARE	Rule 3644	ADOPTED April 7, 2016
		EFFECTIVE May11, 2016

Nonmonetary Eligibility

Provides that an individual shall be disqualified for benefits if it is determined that such individual has made a false statement or representation knowing it to be false, or knowingly has failed to disclose a material fact to obtain benefits to which the individual was not lawfully entitled.

Provides that, when the Delaware Division of Unemployment Insurance cross-matches an individual's eligibility to receive benefits through a wage or other matching program and determines that wages were not reported by the individual, or otherwise discovers wages not

reported by the individual, prior to taking any adverse action against the individual, the Division shall send the individual a notice providing the individual with an opportunity to submit additional information to contest the information discovered by the Division. The individual will have 7 days from the date the notice is mailed to respond to the notice. If the individual does not timely respond to the notice, the Division will make a decision based on the information it has obtained through its investigation. If the individual does timely respond to the notice, the Division will make a decision based on all information obtained through its investigation, including the individual's response.

IDAHO Rule 9484

ADOPTED April 16, 2016
EFFECTIVE March 25, 2016

Nonmonetary Eligibility

Provides that, for purposes of work search requirements, increases the maximum number of weeks for an individual to be considered job attached from 12 to 16. Provides that, if the individual returns to work temporarily during this period, the individual's period of job attachment shall be extended by one week for each week of verified full-time employment.

MASSACHUSETTS HB 4116
(CH 70)

ENACTED and EFFECTIVE April 1, 2016

Administration

Provides that the Department of Workforce Development shall disclose, upon request, such information in the following circumstances:

- to the heads of the departments of career services, transitional assistance, revenue, veterans' services, office of Medicaid and industrial accidents, information necessary in the performance of their official duties; and
- to the heads of governmental agencies who are partners in the Workforce Innovation and Opportunity Act, information necessary for the purpose of complying with performance reporting requirements of the Workforce Innovation and Opportunity Act, Public Law 113-128. (Previously, disclosed to the commissioners of public welfare, revenue, veterans' services, medical security and industrial accidents, information necessary in the performance of their official duties.)

MISSISSIPPI SB 2808

ENACTED and EFFECTIVE March 21, 2016

Financing

Creates, in the Treasury of the State of Mississippi, a special fund to be known as the "Mississippi Works Fund" which shall consist of funds collected from Mississippi Works contributions.

Provides that the cost of collection and administration of the Mississippi Works contribution shall be allocated based on a plan approved by the United States Department of Labor (USDOL).

The Mississippi Community College Board shall pay the cost of collecting the Mississippi Workforce Enhancement Training contributions, the State Workforce Investment Board shall pay the cost of collecting the State Workforce Investment contributions, and the Mississippi Department of Employment Security shall pay the cost of collecting the Mississippi Works contributions. Payments shall be made semiannually with the cost allocated to each based on a USDOL approved plan on a pro rata basis for periods ending in June and December of each year. Payment shall be made by each organization to the department no later than 60 days after the billing date. Cost shall be allocated under the USDOL's approved plan and in the same ratio as each contribution type represents to the total to be collected for the period.

Provides that Workforce Enhancement Training contributions and State Workforce Investment contributions for calendar years 2014 and 2015 shall be distributed as follows, regardless of when the contributions were collected: (i) for calendar year 2014, 94.75 percent shall be distributed to the Mississippi Workforce Enhancement Training Fund, and the remainder shall be distributed to the State Workforce Investment Board bank account; (ii) for calendar years subsequent to calendar year 2014, 93.75 percent shall be distributed to the Mississippi Workforce Enhancement Training Fund, and the remainder shall be distributed to the State Workforce Investment Board bank account.

Provides that interest earnings and/or interest credits for the State Workforce Investments funds shall be used for the payment of banking costs, and excess amounts shall be used in accordance with the rules and regulations of the State Workforce Investment Board expenditure policies.

Provides that the Mississippi Works Funds allocated shall only be utilized for the training of unemployed persons, for immediate training needs for the net new jobs created by an employer, for the retention of jobs, or to create a work-ready applicant pool of Mississippians with credentials and/or postsecondary education. Not more than 25 percent of the funds may be allocated for the retention of jobs and/or creation of a work-ready applicant pool. Not more than \$500,000 may be allocated annually for the training needs of any one employer. Training conducted utilizing these Mississippi Works Funds may be subject to a minimal administrative fee to be paid from the Mississippi Works Fund. All costs associated with the administration of these funds shall be reimbursed to the Mississippi Department of Employment Security from the Mississippi Works Fund.

Provides that Mississippi Workforce Enhancement Training contributions and State Workforce Investment contributions shall be collected at the following rates:

1. For calendar year 2014 only, the rate of 0.19 percent based upon taxable wages of which 0.18 percent shall be the Workforce Enhancement Training contribution and 0.01 percent shall be the State Workforce Investment contribution; and
2. For calendar year 2015 only, the rate of 0.16 percent based upon taxable wages of which 0.15 percent shall be the Workforce Enhancement Training contribution and 0.01 percent shall be the State Workforce Investment contribution.

Provides that Mississippi Workforce Enhancement Training contributions, State Workforce Investment contributions, and Mississippi Works contributions shall be collected at the following rates:

1. For calendar year 2016 only, at a rate of 0.24 percent based upon taxable wages of which 0.15 percent shall be the Workforce Enhancement Training contribution, 0.01 percent shall be the State Workforce Investment contribution, and 0.08 percent shall be the Mississippi Works contribution.

2. For calendar years subsequent to calendar year 2016, at a rate of 0.20 percent based upon taxable wages of which 0.15 percent shall be the Workforce Enhancement Training contribution, 0.01 percent shall be the State Workforce Investment contribution, and 0.04 percent shall be the Mississippi Works contribution. The Mississippi Works contribution shall be collected for calendar years in which the general experience ratio, adjusted on the basis of the trust fund adjustment factor and reduced by 50 percent, results in a general experience rate of less than 0.2 percent. In all other years the Mississippi Works contribution shall not be in effect.

Provides that the Mississippi Workforce Enhancement Training Fund contribution, the State Workforce Investment contribution, and the Mississippi Works contribution shall be in addition to the general experience rate plus the individual experience rate of all employers but shall not be charged to reimbursing or rate-paying political subdivisions or institutions of higher learning, or reimbursing nonprofit organizations.

Provides that the required suspension of the Workforce Enhancement Training Fund contributions shall occur if the insured unemployment rate exceeds an average of 5.5 percent for the 3 consecutive months immediately preceding the effective date of the new rate year following such occurrence, and shall remain suspended throughout the duration of that rate year. Such suspension shall continue until such time as the 3 consecutive months immediately preceding the effective date of the next rate year has an insured unemployment rate of less than an average of 4.5 percent. Upon such occurrence, reactivation shall be effective upon the first day of the rate year following the event that lifts suspension and shall be in effect for that year and shall continue until such time as a subsequent suspension event occurs.

Provides that no employer's unemployment contribution general experience rate plus individual unemployment experience rate shall exceed 5.4 percent.

Provides that benefits shall not be charged to an employer's experience-rating record if the individual was paid benefits as a result of a fraudulent claim, provided notification was made to the Mississippi Department of Employment Security in writing or by e-mail by the employer, within 10 days of the mailing of the notice of claim filed to the employer's last-known address.

Provides that the general experience rate shall be 0.0 percent unless the general experience ratio for any tax year as computed and adjusted on the basis of the trust fund adjustment factor and reduced by 50 percent is an amount equal to or greater than 0.2 percent; then the general experience rate shall be the computed general experience ratio and adjusted on the basis of the trust fund adjustment factor and reduced by 50 percent; however, in no case shall the sum of the

general experience plus the individual experience unemployment insurance rate exceed 5.4 percent. For rate years subsequent to 2014, Mississippi Workforce Enhancement Training contribution rate, and/or State Workforce Investment contribution rate, and/or Mississippi Works contribution rate, when in effect, shall be added to the unemployment contribution rate, regardless of whether the addition of this contribution rate causes the total contribution rate for the employer to exceed 5.4 percent.

NEW MEXICO HB 283
 (CH 92)

ENACTED March 9, 2016
EFFECTIVE May 18, 2016

Financing

Provides that, for each calendar year if, as of the computation date for that year, an employer has been a contributing employer throughout the preceding 24 months, the contribution rate for that employer shall be determined by multiplying the employer's benefit ratio by the reserve factor as determined pursuant to subsection H of section 51-1-11 and, for each calendar year beginning in calendar year 2017, then multiplying that product by the employer's experience history factor as determined under subsection I of section 51-1-11; provided that an employer's contribution rate shall not be less than 0.33 percent or more than 5.4 percent. An employer's benefit ratio is determined by dividing the employer's benefit charges during the immediately preceding fiscal years, up to a maximum of 3 fiscal years, by the total of the annual payrolls of the same time period, calculated to 4 decimal places, disregarding any remaining fraction. (Inserted "and, for each calendar year beginning in calendar year 2017, then multiplying that product by the employer's experience history factor as determined under subsection I of section 51-1-11" to the paragraph.)

Provides in Subsection I: that for each calendar year beginning in calendar year 2017 if, as of the computation date for that calendar year, an employer has been a contributing employer throughout the preceding 24 months, the employer's experience history factor shall be determined as of the computation date and shall be based on the employer's reserve. The employer's reserve shall be calculated as the difference between all of the employer's previous years' contribution payments and all of the employer's previous years' benefit charges, divided by the average of the employer's annual payrolls for the immediately preceding fiscal years, up to a maximum of 3 fiscal years.

If an employer's reserve is: The employer's experience history factor is:

6.0% and over	0.4000
5.0% - 5.9%	0.5000
4.0% - 4.9%	0.6000
3.0% - 3.9%	0.7000
2.0% - 2.9%	0.8000
1.0% - 1.9%	0.9000
0.0% - 0.9%	0.9500

Under 0.0%

1.0000

Provides that, effective calendar year 2017, any other provision of law notwithstanding, an employer's contribution rate plus the employer's excess claims rate, if any, shall increase by no more than 2 percentage points from one calendar year to the next.

NEW YORK

SB 6469
(CH 503)

ENACTED and EFFECTIVE November 28, 2016

Coverage

Amends the definition of employment to exclude service by any person engaged in the trade or business of delivering or distributing newspapers or shopping news (or any services directly related) if substantially all of the remuneration (paid in cash or not) is directly related to sales or other output rather than the number of hours worked, and the services are performed pursuant to a written contract and the contract provides that the person will not be treated as an employee for federal tax purposes. This exclusion does not apply to commercial goods transportation services performed for a commercial goods transportation contractor.

OKLAHOMA

Rule 18214

ADOPTED June 9, 2016
EFFECTIVE September 11, 2016

Financing

Defines the date of receipt of payment by the Employment Security Commission as the date postmarked on a properly addressed envelope; the date on which an electronic payment was authorized for immediate payment; and the date received by the Commission for all other payments of money.

Provides that an employer may request electronic notice of benefit claims through the employer portal. The employer will be responsible to access the account on a regular basis concerning claims posted there. Deadlines shall be computed from the date the electronic notification is sent by the Commission.

UTAH

Rule 40449

ADOPTED September 15, 2016
EFFECTIVE August 25, 2016

Administration

Requires the claimant to provide, among other things, any other information requested by the Department. The claimant is required to return telephone calls and respond to requests that are made electronically, verbally, or by U.S. Mail. Generally, claimants will be given 48 hours, excluding hours during weekends or legal holidays, to respond to requests made verbally or electronically and five full business days to respond to requests mailed through the U.S. Mail. (Previously, any other information included requests for documentary evidence, written statements, or oral requests. Claimants are required to return telephone calls when requested to do so by Department employees.)

Appeals

Provides that any employer not satisfied with the determination of his liability for contributions or liability resulting from an audit must file, within 28 (previously, 15) days after mailing or personal delivery of the final audit determination, a request for a hearing and reconsideration of the employer's contribution liability. Such request must be made in writing and state the grounds for the request.

Provides that, after the close of the hearing, the examiner will issue a decision with findings of fact and conclusions of law. That decision shall be mailed to the alleged employer's address of record. The division staff and the alleged employer will have 28 (previously, 15) days from the day the decision is sent to the employer to file an appeal. If an appeal is not filed within that time period, the examiner's decision is final.

Provides that, if an appeal of the examiner's decision is filed within the 28-day (previously, 15-day) time period as provided above, the commission will consider the case at one of its monthly meetings. The commission will review the record and the evidence and may affirm, reverse, or modify the examiner's decision, remand the case to the examiner, or take such other action as it deems appropriate. The commission will send a copy of its decision to the alleged employer by certified mail. A petition for judicial review then may be filed pursuant to the Wyoming Administrative Procedure Act.

Provides that a party desiring rehearing or reopening of a case before the appeals examiner must file a written application to do so with the examiner no later than 28 (previously, 15) days after the mailing of the examiner decision to the party's address of record. If good cause is shown for failing to appear at the examiner hearing, the examiner may rehear or reopen the matter. The rehearing may be held solely for the purpose of taking the absent party's evidence without granting him the right to cross-examine opposing witnesses who testified at the first hearing.

Provides that, if the examiner denies the request to reopen or rehear, he shall issue a written decision to that effect. The aggrieved party shall have 28 (previously, 15) days from the date that decision was mailed to his address of record to file an appeal to the commission.